IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.447 OF 2004
IN
SUMMARY SUIT NO. 195 OF 2004

The Indian Hotels Co.Ltd. ..Plaintiffs

Vs.

Studio 2100 and Ors. ..Defendants

Mr.E.P.Bharucha i/b Mulla and Mulla for the plaintiffs

Mr.J.B.Singh i/b R.K.Kidha and Tripathi for the defendant

CORAM : S.U.KAMDAR, J
DATED : 27TH SEPTEMBER, 2005

P.C.:

1. The learned counsel for the plaintiffs restricts the Summons for Judgment against defendant no.1 and 2 only.

2. The present suit is filed on the basis of written contract which is evident from the letter dt.25.10.05 and confirmation thereof by the defendant by their letter dt.9.11.00. The contract is in respect of utilisation of Hotel Facilities at Taj Bengal at Kolkatta & Taj Holiday Village, Goa. It is the case of the plaintiffs that for the

purpose of 'Millennium Super Soccer Cup Tournament, the defendants booked large number of rooms and agreed to make payment for the same. These rooms were reserved for residence of various participants of the said tournament. The said rooms are utilised. Various invoices are also issued by the plaintiffs. However, defendants have failed to make payment and thus, the present suit is filed.

3. The learned counsel for the defendants has firstly contended that under the terms and conditions of the contract balance amount was payable one week prior to check out. The plaintiffs were thus required to give prior intimation of the checking out of the participants to the defendants which according to the defendants the plaintiffs have failed to do. It is thus, the case of the defendants that by virtue of non-intimation the defendants failed to recover the amount from the participants who have utilised the said rooms. and therefore there is no liability to make payment to the plaintiffs by the defendants. I do not find any merits in the aforesaid contention.

4. Firstly because the defendants being organiser was well aware of the date of the check out of each and every participant and its guest and therefore the plaintiffs were not obliged to make any such intimation to the defendants herein. The next contention raised is that there are certain charges levied pertaining to beverages and STD telephone facilities which is not forming part of the contract and therefore the defendants are not liable to make the aforesaid payment. Even considering the aforesaid contention at the highest there is a small fraction of amount which is charged towards the said phone facilities. In my opinion, the said facilities are part and partial of the room facilities and obviously occupier of the said room is liable to pay for the same. In that view of the matter, I find no merits. In any of the defence. However, with a view to give an opportunity to the defendants to defend the case, I direct the defendants to deposit a sum of Rs.15 lacs within 4 weeks, failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is

directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.